

### DOUBLE PATENTING

Claims 1 and 21-31 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-19 of U.S. Patent No. 6,047,530.

Notwithstanding, Applicant submits, attached to this Response, a Terminal Disclaimer in compliance with 37 CFR § 1.321(c) which overcomes each of the instant rejections based on a nonstatutory double patenting ground. Applicant's Terminal Disclaimer simply serves the statutory function of removing the rejections of double patenting and raises neither a presumption nor an estoppel as to the merits of the Examiner's rejection. Applicant's Terminal Disclaimer should **not** be considered as an admission, acquiescence or estoppel as to the merits of the rejection and doing so would be improper. *Ortho Pharmaceutical Corp. v Smith*, 22 U.S.P.Q.2D 1119, 1124 (Fed. Cir. 1992); *Quad Envtl. Tech. Corp. v Union Saniary Dist.*, 20 U.S.P.Q.2D 1392 (Fed. Cir. 1991). Consequently, Applicant respectfully requests that this rejection be reconsidered and withdrawn.

### CONCLUSION

All of the grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests the Examiner to reconsider all presently outstanding rejections and that they be withdrawn. It is believed that a full and complete response has been made to the outstanding office action, and as such, the present application is in condition for allowance.